

REMARKS

Claims 1-22 are all the claims pending in the application.

Applicant thanks the Examiner for acknowledging receipt of the Information Disclosure Statements filed on February 21, 2001 and September 10, 2003 and for indicating that the references listed therein have been considered. Applicant notes that the Examiner has indicated that some of the priority documents have been received. However, the Office Action does not indicate which documents are claimed to be missing.

Applicant notes that a complete copy of the priority document, Japanese Application No. 50476/2000, was submitted concurrently with the filing of this application on February 21, 2001. A copy of the date-stamped filing receipt dated February 21, 2001, and Applicant's representative's filing transmittal letter also dated February 21, 2001, indicating receipt of the priority document by the PTO, is enclosed. Accordingly, Applicant respectfully requests that the Examiner acknowledge receipt of the complete priority document in the next Office Action.

The Examiner has objected to the specification as containing typographical errors. The Applicant has amended the specification, as set out above, to address this objection. These amendments are for clarification only and do not add any new matter.

§ 112, Second Paragraph, Rejection

The Examiner has objected to claims 1-7 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant notes, however, that in describing this rejection, the Examiner

specifically objected to claims 1, 3, 5, 12, 14 and 16. As such, Applicant addresses the § 112, second paragraph, of claims 1, 3, 5, 12, 14 and 16 as follows.

Regarding claims 1 and 12, Applicant respectfully disagrees that the term “certificates” is indefinite. Given the Japanese usage of the term as a transitive verb in the specification and the claims, and the resulting English translation, “certificates” refers to the act of billing the user for the usage of various web-based services.¹ In addition, the specification at page 6, lines 23-27 has been amended to clarify that certification server 5 bills the user for the reception of services and content information.

By way of background, as set out in the specification, the certification server 5 certifies a user. (Spec. at pg. 6, lines 23-24). Further, the certification server includes a packet monitoring devise 6 which begins and ends packet monitoring when the user logs into then out of the certification server. (Spec. at pg. 7, lines 1-3). The present invention addresses the determination of a proper fee for using various web-based services through the monitoring of transmitted packets. (Spec. at pg. 2). Accordingly, “certificates” as it is used as a transitive verb, refers to the act of billing or accounting for a debt, and in this instance, billing for a debt arising out of the usage of various web-based services. Therefore, Applicant respectfully submits that one skilled in the art would understand what is claimed when claims 1 and 12 are

¹ See, Dictionary.com, **Certificates** (*tr.verb*) - “To furnish with a certificate;” Merriam-Webster’s Online Dictionary, **Certificate** (*noun*) - “a document evidencing ownership or debt;” Dictionary.com, **Certify** (*verb*) - “To issue a license or certificate;” Merriam-Webster’s Online Dictionary, **Certification** (*noun*) - “the act of certifying.”

read in light of the specification. The § 112, second paragraph, rejection of claims 1 and 12 should, therefore, be withdrawn.

Turning to claims 3, 5, 14 and 16, Applicant has amended these claims, as set out above, to address the Examiner's concerns. Applicant, therefore, respectfully submits that the Examiner's § 112, second paragraph, rejection of claims 1, 3, 5, 12, 14 and 16 has been fully addressed.

§ 103(a) Rejections

The Examiner has rejected claims 1, 2, 4, 5, 12, 13, 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Ikudome (U.S. Patent No. 6,779,118) in view of official notice. In addition, claims 3, 6-11, 14 and 17-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikudome in view of McCreery (U.S. Patent No. 5,787,253). However, claims 3, 6 and 7, and claims 14, 17 and 18, depend from independent claims 1 and 12, respectively. Therefore, with respect to these claims, Applicant assumes that the Examiner also meant to apply the stated "official notice" cited in rejecting claims 1 and 12.

Applicant traverses these rejections as set out below.

Claims 1 and 11:

Independent claims 1 and 12 recite, among other things, "a certification server which certifies a user." The Examiner asserts that Ikudome discloses the remaining limitations of claims 1 and 12. To supply the missing "certification server" the Examiner relies upon official notice for the proposition that one of ordinary skill in the art would have reasonably inferred that

Ikudome's authentication server is analogous to the claimed certification server because they have similar functionality. The Examiner further asserts that the similar functionality refers to an intermediary which provides access to an application server. Applicant respectfully disagrees.

Applicant submits that the Examiner's reliance on official notice is improper. The Examiner's record must include some form of evidence to support an assertion of official notice. Simply put, where the Examiner relies upon official notice, the basis for the Examiner's reasoning must be set out. That is, the Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support the conclusion of common knowledge. MPEP § 2144.03(B).

In this instance the Examiner has merely stated a conclusion that two devices are analogous if they provide similar functionality. Initially, "analogous" means only somewhat similar. Therefore, even if correct, the asserted combination would not disclose all of the recited limitations of claims 1 and 12.

Further, there is no substantial evidence or sound technical reasoning for the stated conclusion. In essence, the Examiner appears to be basing the stated conclusion on common sense. Such conclusory statements are not substantial evidence and do not fulfill the Examiner's obligations. MPEP § 2144.03(A).

In any event, Applicant respectfully submits that the Examiner's conclusion is incorrect. The recited certification server does not perform functions similar to Ikudome's authentication server. Ikudome's authentication server performs validation checks of user ID's and passwords.

(Col. 5, lines 53-55). On the other hand, the recited certification server of claims 1 and 12 performs the function of billing the user for any web-based services utilized while the user is logged on to the Internet. These functions are not equivalent, nor are they analogous as asserted. Accordingly, Applicant respectfully submits that for these reasons, the § 103(a) rejection of independent claims 1 and 12 should be withdrawn.

Because Applicant has traversed the Examiner's reliance on official notice by pointing to specific errors above, the Examiner must provide documentary evidence in the next office action if this rejection is to be maintained. MPEP § 2144.03(C).

Claims 2-7 and 13-18:

Claims 2-7 and 13-18 all depend from claims 1 and 12, respectively, and the rejection of the same are based, in part, on the Examiner's reliance on official notice with respect to claims 1 and 12. Therefore, they should be allowable at least based on their dependence from claims 1 and 12 for at least the same reasons described above.

Claims 8 and 19:

Independent claims 8 and 19 recite, among other things, "making annunciation to said user when there is a certain rule in said interval." The Examiner asserts that Ikudome discloses the remaining limitations of claims 8 and 19. To supply the missing "annunciation" the Examiner asserts that McCreery discloses an alarm generation section 270. Further, the Examiner asserts that it would have been obvious to one of ordinary skill in the art to implement McCreery's alarm generation section (which the examiner equates with the recited annunciation)

into Ikudome's packet monitoring system to alert users when there is a problem with the network. Applicant respectfully disagrees.

Initially, McCreery's alarm generation section is not equivalent, or even analogous, to the recited annunciation. Alarm generation section 270 alerts managers of internet sites and internet service providers of network problems in order to better monitor reliability. (Col. 5, 44-54). On the other hand, the recited annunciation in claims 8 and 19 notifies "users" when there is a certain rule in an interval.

In the present invention, users are those individuals that receive services and content information at data communication terminals from application servers. (Spec. at page 6, lines 15-18). Annunciation to a user is made in various manners such as a text document, a notice board, a warning notice included in the communications protocol or a warning program capable of running on the user's terminal. (Spec. at pg. 7, line 26 – pg. 8, line 3). It is, therefore, respectfully submitted that the recited annunciation is only directed to users, not managers of internet sites or internet service providers. Further, there is no disclosure, teaching or suggestion that McCreery's alarm generation section 270 is directed to monitoring packets transmitted to individual users.

As the Examiner admits, Ikudome's packet monitoring system fails to disclose the recited annunciation. Ikudome simply addresses redirecting data traffic to specific users. There is no disclosure, teaching or suggestion of a need for any alarm or warning functionality for users. Neither reference, therefore, either alone or in combination, provides any teaching, suggestion or

motivation which would support the Examiner's asserted combination. Moreover, as a practical matter, it is by no means clear that the Examiner's asserted combination would preserve the principle of operation of Ikudome's packet monitoring and redirecting system. Accordingly, Applicant respectfully submits that for these reasons, the § 103(a) rejection of independent claims 8 and 19 should be withdrawn.

Claims 9-11 and 20-21:

Claims 9-11 and 20-21 all depend from claims 8 and 19, respectively, and the rejection of the same are based on the Examiner's asserted combination of Ikudome and McCreery with respect to claims 8 and 19. Therefore, they should be allowable at least based on their dependence from claims 8 and 19 for at least the same reasons described above.

Conclusion:

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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